

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CATHY D. BROOKS-MCCOLLUM, et al.)	
)	
Plaintiff,)	Civil Action No. 04-419 JJF
)	
v.)	
)	
STATE FARM INSURANCE COMPANY,)	
)	
Defendant.)	

DEFENDANT’S REPLY BRIEF

CASARINO, CHRISTMAN & SHALK, P.A.

/s/ Stephen P. Casarino
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TABLE OF CASES AND AUTHORITIES

Bruton v. Hendler, 2004 WL 2370704 (D. Del. 2004) 1

US v. Golden Acres, Inc., 520 F Sup 1073 (D. Del. 1981) 1

ARGUMENT

I. PLAINTIFF HAS NOT RAISED A FACTUAL ISSUE TO DEFEAT SUMMARY JUDGMENT

It appears that plaintiff is arguing that discovery is incomplete and summary judgment should not be granted. She continues to insist that there were illegal activities against her by State Farm, however she has pointed to no evidence of improper activity nor has she filed any affidavit supporting her contention that there was illegal activity on the part of State Farm. Rule 56 (e) requires apposing affidavits to be made upon personal knowledge filed with plaintiff's brief.

The fact remains that even though the plaintiff's complaint alleges improper conduct and although she may believe it existed, she has no proof that defendant harassed her or committed any illegal activity. In *US v. Golden Acres, Inc.*, 520 F Sup 1073 (D. Del. 1981) the court stated that an opposing party cannot successfully defeat a summary judgment motion simply by making denials. The party must set forth specific facts showing there is a genuine issue for trial. See also *Bruton v. Hendler*, 2004 WL 2370704 (D. Del. 2004)

Plaintiff's claims she recently filed Request for Admissions. The Request for Admissions were directed to non parties to this litigation. The defendant has not been served with any Request for Admissions. However State Farm has been contacted by two of its employees who were personally served with the requests. Plaintiff has also served Request for Admissions upon non parties Shareef, Renford Brevette, Valerie Longhurst, Maudy Melville, Mark Martell and Ruth Vivardis. None of these are parties to this litigation nor are they employees or agents of the defendant State Farm. Even though the two employees of State Farm were served, they are not parties to this litigation but are employees of State Farm. Counsel and the defendant in this litigation State Farm were never served with the Request for Admissions. Not with standing, Answers to

those Requests for Admissions have been filed. There is no admissible fact which would defeat defendant's Motion for Summary Judgment.

In order to defeat summary judgment, plaintiff must establish that there is a genuine issue of fact. Conclusionary comments by her without proof are insufficient.

CASARINO, CHRISTMAN & SHALK, P.A.

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CERTIFICATE OF SERVICE

I, Stephen P. Casarino, Esq., hereby certify that I have caused to be served via e-mail at 800 North King Street, Suite 200, Wilmington, DE 19801, on this 21st day of August 2007, a true and correct copy of the attached Reply Brief addressed to:

Cathy D. Brooks-McCollum
115 Emerald Ridge Drive
Bear, DE 19701

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